



1 testimony read back to the jury.<sup>1</sup>

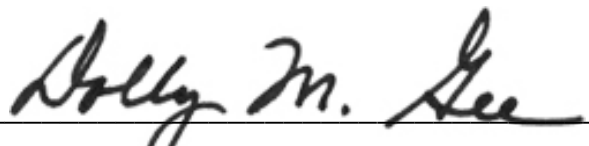
2 Furthermore, even assuming *arguendo* that there had been a constitutional  
3 violation, any error was harmless for the reasons stated in the Report and  
4 Recommendation. (*See* R&R at 6-7.)

5 Accordingly, IT IS ORDERED THAT:

- 6 1. The Report and Recommendation is approved and accepted;
- 7 2. Judgment be entered denying the Petition and dismissing this action  
8 with prejudice; and
- 9 3. The Clerk serve copies of this Order on the parties.

10 Additionally, for the reasons stated in the Report and Recommendation, the  
11 Court finds that Petitioner has not made a substantial showing of the denial of a  
12 constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Miller-El v.*  
13 *Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a certificate  
14 of appealability.

15  
16 DATED: December 29, 2011

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19 DOLLY M. GEE  
20 UNITED STATES DISTRICT JUDGE  
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27 <sup>1</sup> The two cases cited by Petitioner are *Shields v. United States*, 273 U.S. 583  
28 (1927) and *Bollenbach v. United States*, 326 U.S. 607 (1946).